

**REMARKS**

Claims 1, 11, and 21 have been amended.

Claims 1 – 30 are present in the subject application.

In the Office Action dated October 3, 2006, the Examiner has rejected claims 1 – 30 under 35 U.S.C. §103(a). Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

The Examiner has rejected claims 1 – 30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,956,774 (Shibamiya et al.) in view of U.S. Patent No. 6,006,220 (Haderle et al.).

Applicant gratefully acknowledges the courtesies extended by Examiner Nguyen during the recent telephone Interview of December 19, 2006. During the Interview, Applicant presented arguments indicating that the cited Shibamiya et al. and Haderle et al. patents do not teach the claimed feature of regenerating the access path in response to a comparison of query variables within subsequent executions of the same query indicating sufficient differences between the variables to generate a different access path. The Applicant further indicated that the Shibamiya et al. patent selects an access path based on time estimates for each path to execute the query, while the Haderle et al. patent utilizes a default filter factor at bind time to select an access path and determines the filter factor at execution time based on the available values for query variables to determine an optimal access path.

The Examiner took the position that the default filter factor and newly determined filter factor of the Haderle et al. patent disclose the claimed comparison, but indicated that claim

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amendments further differentiating the claimed first value for query variables from the default filter factor of the Haderle et al. patent would overcome the cited art.

Independent claims 1, 11 and 21 are considered to overcome the Shibamiya et al. and Haderle et al. patents for at least the claimed features of the query variable comparison to regenerate an access path as discussed above. However, in order to expedite prosecution of the subject application, independent claims 1, 11 and 21 have been amended in accordance with the Examiner's comments and recite the features of: generating a preferred access path for a query with at least one variable at execution time, wherein each variable in the query receives a first value during the execution time and the preferred access path is generated based upon the first value for each variable in the query; and regenerating the preferred access path for the query in response to the comparison indicating that the information related to the second value received during the subsequent execution differs sufficiently from the stored information related to the first value received during the execution time to enable generation of an access path different than the preferred access path.

In other words, the independent claims recite that each query variable receives a first value at execution time which is utilized to generate a preferred access path during that execution time, and regenerating the access path for a subsequent execution of the same query with each query variable receiving a second value during the subsequent execution in response to sufficient differences between the first and second values for the query variables. In contrast, the Haderle et al. patent discloses that the default filter factor (construed by the Examiner as the claimed first value of the query variables) is utilized during the bind process to select an access path since query variables are unknown at that time (e.g., See Column 3, lines 63 - 66). The access path is

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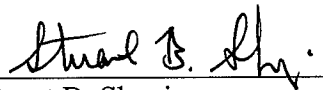
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re-optimized at execution time when the variables are known in order to provide a more accurate estimate of the filter factor for selecting an access path (e.g., See Column 4, line 56 to Column 5, line 5). Accordingly, since the default filter factor (and access path) of the Haderle et al. patent is determined during the bind process when query variables are unknown, the default filter factor of the Haderle et al. patent does not read on the first value of each query variable which is received during the execution time to generate the preferred access path at that execution time as recited in the independent claims. Further, there is no disclosure of a comparison of the default and newly estimated filter factors to determine whether to regenerate an access path as recited in the independent claims.

In view of the above discussion, independent claims 1, 11, 21 and their corresponding dependent claims are considered to overcome the Shibamiya et al. and Haderle et al. patents and be in condition for allowance.

The application, having been shown to overcome the issues raised in the Office Action, is considered to be in condition for allowance and a Notice of Allowance is earnestly solicited.

Respectfully submitted,



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